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Southern District of New York
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	<u>COMPLAINT</u>
	:	
-v.-	:	07 Civ. 8594 (JGK)
	:	
AGNES F. NOLAN, in her personal	:	<u>ECF Case</u>
capacity, and AGNES F. NOLAN, as	:	
personal representative for the estate of	:	
RICHARD E. NOLAN, deceased,	:	
	:	
Defendants.	:	
-----X	:	

Plaintiff, United States of America, by its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, herein alleges upon information and belief for its complaint as follows:

INTRODUCTION

1. This is a civil action brought by plaintiff, the United States of America, on behalf of its agency the Internal Revenue Service ("IRS"), to reduce to judgment assessments of the federal tax liabilities of Agnes F. Nolan and Richard E. Nolan, deceased, for unpaid taxes, penalties, and interest.

2. This action has been authorized and requested by a delegate of the Secretary of the Treasury, and is brought at the direction of the Attorney General of the United States pursuant to the provisions of 26 U.S.C. §§ 7401 and 7402, as amended.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a).

4. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. §§ 1391(b) and 1396, because Agnes Nolan resides within the Southern District of New York, and the tax liability giving rise to this action accrued while both Agnes and Richard Nolan resided in the Southern District of New York.

PARTIES

5. Agnes Nolan is a natural person, and an attorney, who currently resides at 271 Central Park West, Apartment 12W, New York, New York 10024. She is the widow and the executor of the estate of Richard Nolan, also an attorney, who died on May 22, 2000.

CLAIM FOR RELIEF – REDUCING ASSESSMENTS TO JUDGMENT

6. The allegations in paragraphs 1 through 5 are repeated and realleged as though set forth fully herein.

7. On the dates indicated below, a duly authorized delegate of the Secretary of the Treasury made assessments against Agnes and Richard Nolan for deficiencies in the payment of federal income taxes owed jointly by them, as follows:

<u>Tax & Period</u>	<u>Date of Assessment</u>	<u>Amount of Assessment</u>
Income 1979	10/14/1996	\$518,215.52
Income 1980	10/14/1996	\$482,943.72
Income 1981	11/04/1996	\$871,827.63
Income 1982	10/14/1996	\$247,887.74
Income 1987	11/21/1988	\$20,273.59
Income 1988	11/20/1989	\$198,421.57
Income 1989	5/28/1990	\$107,165.01
Income 1990	5/27/1991	\$62,897.84

8. On the dates indicated below, a duly authorized delegate of the Secretary of the Treasury made assessments against Agnes Nolan for deficiencies in the payment of federal income taxes owed solely by her, as follows:

<u>Tax & Period</u>	<u>Date of Assessment</u>	<u>Amount of Assessment</u>
Income 1995	6/9/1997	\$7,552.91
Income 1997	8/24/1998	\$12,836.58
Income 2004	11/28/2005	\$87,845.59
Income 2005	8/21/2006	\$22,280.71

9. On the dates indicated below, a duly authorized delegate of the Secretary of the Treasury made assessments against Agnes Nolan for trust fund recovery penalties assessed against her for failure to pay employment taxes, as follows:

<u>Tax & Period</u>	<u>Date of Assessment</u>	<u>Amount of Assessment</u>
Civil Penalty 1st Qtr. 1985	12/14/1987	\$45,095.86
Civil Penalty 4th Qtr. 1986	7/6/1987	\$139,253.95
Civil Penalty 3rd Qtr. 1988	2/26/1990	\$173,123.28
Civil Penalty 1st Qtr. 1990	3/25/1993	\$8,490.33

10. On or about the dates of assessment set forth above, the IRS issued notices of assessment and demands for payment with respect to the amounts owed.

11. The statute-of-limitations period for reducing tax assessments to judgment is normally 10 years. *See* 26 U.S.C. § 6502. However, the statute-of-limitation periods for reducing to judgment the assessments set forth above have variously been extended due to bankruptcies filed by Agnes Nolan in 1991 and 1999, as well as offers in compromise and collection due process (“CDP”) proceedings regarding the assessments that were pending at various times. *See* 26 U.S.C. § 6503(h) (extending statute of limitations during bankruptcy proceedings); *id.* §§ 6503(a)(1), 6331(k)(1) (extending statute of limitations during pendency of offers in compromise); *id.* § 6330(e) (extending statute of limitations during pendency of CDP

proceedings). As a result, the statute of limitations has not run with respect to any of the assessments set forth above.

12. The IRS has exhausted all administrative remedies in attempting to collect the amounts due.

13. Since the dates of the assessments set forth above, statutory interest, additions, and penalties have accrued and continue to accrue.

14. As of September 1, 2007, the total amount owed by Agnes Nolan with respect to the assessments against her (as set forth in paragraphs 7 through 9), inclusive of statutory interest, additions, and penalties, is \$7,708,369.62.¹

15. As of September 1, 2007, the total amount owed by the estate of Richard Nolan with respect to the assessments against him (as set forth in paragraph 7), inclusive of statutory interest, additions, and penalties, is \$5,477,633.82.

16. By this action, the United States seeks to reduce the aforementioned tax assessments to judgment.

WHEREFORE, plaintiff the United States demands judgment:

(a) reducing to judgment the assessed tax liabilities of Agnes Nolan in her personal capacity and in her capacity as personal representative of Richard Nolan, which as of September 1, 2007 totaled \$7,708,369.62, including taxes, statutory interest and penalties, and which further include any statutory interest and penalties that have accrued since September 1, 2007, less any payment made for which credit has not been given; and

(b) granting the United States its costs, disbursements, and such further relief against defendants as the Court may deem just and proper.

¹ This figure does not reflect a down payment of \$465,760.60 made by Agnes Nolan to the IRS as part of her last offer in compromise.

Dated: New York, New York
October 3, 2007

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